

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7164

BILL NUMBER: SB 258

DATE PREPARED: Jan 15, 1999

BILL AMENDED:

SUBJECT: Adult-oriented establishment regulation.

FISCAL ANALYST: Bernadette Bartlett

PHONE NUMBER: 232-9586

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill creates the adult-oriented establishment license and provides for local control over the license. An adult-oriented establishment is prohibited from operating without an adult-oriented establishment license. An adult-oriented establishment must have an adult-oriented establishment permit. This bill provides for fees and penalties and imposes other requirements.

Effective Date: July 1, 1999.

Explanation of State Expenditures: (Revised) The State Board of Health is to receive copies of applications for licensure renewals for adult-oriented establishments. Not less than once a month the operator of an adult-oriented establishment must permit the State Department of Health to inspect the establishment. The Department of Health must prepare a report for the authority of all findings. The above provisions will increase administrative expenses for the Department. The specific increase in expenses, however, is indeterminable and will depend on the number of adult-oriented establishments that the Department inspects and the number of applications the Department receives.

Explanation of State Revenues: An authority may enter a state court having proper jurisdiction and seek an injunction against a person or adult-oriented establishment that is not in compliance. Any violation of an injunction constitutes contempt with a fine of \$50. Fines are deposited in the Common School Fund. The impact of this provision is not expected to be significant.

Also, see **Local Revenue** below.

Explanation of Local Expenditures: An adult-oriented establishment must have a license issued by a licensing authority. A copy of the license is to be distributed to the local law enforcement official. The authority or the local law enforcement official must investigate applications. Not later than 10 days after receiving the results of the investigation, the local authority must notify the applicant that the application is

granted, denied, or held for further investigation. If an application for a license is denied, the authority must notify the applicant in writing. If the applicant timely requests a hearing to contest the denial, the local authority must hold a hearing. The applicant may also apply for a permit under certain conditions in order to operate while the investigation continues. These provisions will increase expenses for the local authority. The specific impact, however, is indeterminable and will depend on the number of adult-oriented establishments and the number of applications for licensure.

Explanation of Local Revenues: (Revised) Each original application and renewal application must be accompanied by a \$3,000 license fee. In addition to the renewal fee, a late penalty of \$50 per day is assessed applicants who file for renewal less than 30 days before the license expires. If an application for a license is denied, one-half of the fee is returned to the applicant.

Under certain conditions, an applicant may be required to obtain a permit. Applicants for a permit must submit a \$250 fee. A late penalty fee of \$5 may be assessed applicants seeking a permit. If the applicant is denied a permit, one-half of the permit fee must be returned.

An operator who violates an adult-oriented establishment provision must pay a \$1,000 fee per violation per day. An operator who violates the permit provisions must pay a \$150 fee per violation per day.

Fees collected for licenses and license penalty fees are to be distributed as follows: (1) 33.33% goes to the authority having jurisdiction over the establishment; (2) 33.34% goes to the local law enforcement agency having jurisdiction; and (3) 33.33% goes to the State Department of Health.

Fees collected for permits and permit penalty fees are to be distributed as follows: (1) 60% goes to the authority having jurisdiction over the establishment; and (2) 40% goes to the State Department of Health.

The amount of revenue that will be generated by fees and penalties is indeterminable, but will be based on the number of applicants, the number of adult-oriented establishments, and the number and nature of violations that occur. As defined in the proposal, an adult-oriented establishment includes but is not limited to:

- (1) an adult bookstore;
- (2) an adult motion picture theater;
- (3) an adult mini-motion picture establishment;
- (4) an adult cabaret;
- (5) an escort agency;
- (6) a sexual encounter center;
- (7) a massage parlor;
- (8) a rap parlor; and
- (9) a sauna.

The Marion County Sheriff's Department estimates that there are at least 22 such establishments in Marion County. It is estimated that at least 50 establishments exist statewide. If 50 establishments applied for a license and paid the \$3,000 fee, the license fees would generate \$150,000.

State Agencies Affected: State Department of Health.

Local Agencies Affected: Local law enforcement authorities.

Information Sources: Major Karen Hamilton, Marion County Sheriff's Department.